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The Institute for Public Policy and the Process of Revising Romania's Constitution

A Summary before the Referendum 2003

Being concerned along with the entire society about the process of revising the Constitution, the Institute for Public Policy (IPP) has developed a point of view regarding the way the political negotiation phase has been developed. Although the process is not over yet, we consider adequate to present this intermediary material which, on one hand, carries out, close to the day of the referendum, an useful analysis on the main modifications that have been adopted, and, on the other hand, offers a preliminary image of the way the information campaign has been developed, at the same time, showing some disfunctionalities in its organization.

IPP has elaborated a set of general comments on the aspects that have been included in the revised version of the Constitution as well as on those relevant elements that are not part of the current form of the above-mentioned law. In this sense, concerning the included aspects, we can argue that the most important progress is to be found in the section on *human rights*¹. Most of the proposals from the civil society part (expressed during the Constitutional Forum) have not been included or have not been adequately regulated. At the same time, the proposals coming from the central institutions, especially from behalf of the Government, have been adopted, generally in the form initially elaborated. An important part of the discussed modifications, although included in the Law regarding Constitution Revision, are in fact postponed by stating that they will be settled through an organic law². In most cases, those who initiated the revision topics are the central institutions; thus, one can conclude that these proposals have been considered a priority, although the public debates have been generally focused on other fields as well. The new Constitution does not represent a progress from the point of view of the provisions in respect to the political field and the relationships between the institutions. In this respect, IPP analyzed the relevant aspects that have not been included or have not been rightfully formulated:

- ? The clear differentiation between the duties of the two Chambers of the Parliament. The IPP's recommendation is for the Senate to be considered the representative Chamber of the local level interests, the responsibilities of the

¹ For instance, guaranteeing the private property, the individual freedom, the right of the minorities to use their mother tongue in administration and justice.

² In some situations, this means to change the initial meaning of modification, as it is the case with eliminating the compulsory military stage.

representatives in this Chamber being related to the local communities' problems.

- ? The regime of the Emergency Ordinances should be better regulated through a clear definition of the exception situations.
- ? The parliamentary immunity should be limited only to the political declarations and to the voting process.
- ? The social scholarships should not be included in the Constitution as this is already guaranteed through the right to free education for all citizens.
- ? The number of the citizens that can initiate a draft of law should be even more reduced, IPP's proposal is that this should be compatible to the norm of representation for electing a deputy (70 000 citizens).
- ? The Constitution should establish the dates of the local and general elections, by stating the month and the week in which they will be organized. We also recommend the day of the elections to be fixed during a working day.

Although revising the Constitution represents a necessary process, it is important that this is made thoroughly in order to provide adequate solutions for the deficiencies of the 1991 Constitution.

The results of the political debate do not resolve important issues such as the relation between the state's powers and its institutions (prolonging the mandate of the People's Attorney does not represent a priority compared to the clear delimitation of the Parliament Chambers' attributions). In this sense, it can be argued that the opposition parties took part in a political compromise which demonstrates that the party interests and those related to their position in certain political institution are more important than the citizens' interests no matter the political spectrum.

The civil society's point of view has been taken into consideration in a very small percentage and in irrelevant aspects. After two weeks since the beginning of the campaign for promoting the constitutional modifications and as a direct consequence of this, it can be argued that the citizens are not correctly informed³. Taking into consideration that the Prime Minister has announced the contingency of a new revision in 2007 - the moment announced for Romania's integration in the European Union - we consider that the decision to organize now the referendum contains elements of an electoral exercise, on one hand and is not based on documented arguments, on the other hand. Thus, the result does not bring an essential progress in Romania's political construction. In what concerns the moment of revising the Constitution we consider that it can be postponed until this modification will be a significant one.

The process of revising the Constitution should not have political connotations, as there are premises for considering it a strategy for electoral propaganda of the government party⁴. Organizing the referendum can also mean corruption and using the public funds for electoral purposes. The Government's decision not to organize

³ The repeated message „Yes for the Constitution, Yes for Europe” goes to the idea that this vote is a condition for Romania's integration in the European Union. This idea is false, one of the reasons being that the European Union does not yet have its own Constitution.

⁴ One such example is represented by the presidents of the County Councils from Satu Mare and Teleorman, who declared that those communities' mayors who will not attain a certain limit for participation will be sanctioned by reducing the budget transfers.

public auction can have the risk that the offers will come from the government's clients.

The campaign for promoting the modifications to the population must not have political connotations as well. IPP considers the decision to include in the campaign the public authorities as lacking the legal support, profoundly political and totally void⁵.

We consider that the aspects here mentioned constitute sufficient arguments for showing that, on one hand, the Law regarding the Constitution Revision does not solve a lot of deficiencies of the Constitution from 1991, and, on the other hand, the campaign for promoting the modifications does not properly meet the information needs of the citizens.

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⁵ Among the reasons for stating this position, one can include: promoting these modifications does not belong to the local authorities' responsibilities; the source of funding these activities must be clearly stated; the agents used for promoting the modifications are generally not specialized in this particular domain.